IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Cr.A.No.622 of 2000

Reserved on 29.11.2007

Date of decision 7.12.2007

State of H.P. Appellant

Versus

Ashok Kumar and others Respondents

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, Judge.

Whether approved for reporting?[1] No.

For the appellant : Mr.M.A.Khan Deputy Advocate General.

For the respondents: Mr.R.K.Gautam,Senior Advocate, with Mr.Naveen Bhardwaj, Advocate.

Rajiv Sharma,J.

The respondents were accused in Criminal Case No.358-II/96/93 and they were prosecuted under Sections 323 and 498-A read with Section 34 of the Indian Penal Code. in the court of Additional Chief Judicial Magistrate-II, Kangra and were acquitted on 4.7.2000. The State has filed the present appeal against the acquittal of the respondents.

The facts which can be gathered from the judgment of the trial court are that Smt.Darshna Devi the complainant was married to accused No.1 Ashok Kumar in the year 1989 and as per charge sheet he used to come intoxicated to his house and used to give beatings to the complainant. On 2.6.1993 at 8/9 p.m. the complainant was dragged and beaten by accused No.1 whereas accused No.2 and 3 were abetting him. Consequently, FIR was lodged with Police station, Kangra. The matter was investigated and the challan was put up before the court.

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[1] Whether reporter of local papers is allowed to see the judgment? No.

The prosecution in order to prove its case had examined seven witnesses. Statements of the accused were recorded under Section 313 Cr.P.C. The trial court acquitted the accused on 4.7.2000, hence this appeal against their acquittal.

Mr.M.A.Khan, learned Deputy Advocate General had strenuously argued that the prosecution has proved the charge against the accused. He then contended that the trial court has not correctly appreciated the evidence led by the prosecution which has led to grave miscarriage of justice. Mr.R.K.Gautam, learned senior counsel appearing for the respondents had supported the judgment of the trial court dated 4.7.2000.

I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

There is nothing in the statements of PW-2 Smt. Darshna Devi and PW-7 Ajit Singh that the accused persons have ever made unlawful demand of money from the complainant. The statement of PW-2 is only to the effect that accused Ashok Kumar used to come in the state of intoxication and beat her as she objected to selling of articles by him. The document Ex.PW-3/A has been rightly discarded by the trial court More particularly, the agreement i.e. Ex.PW 3/A was entered on 5.6.1989. As far as injuries received by complainant Smt.Darshna Devi are concerned, suffice it to say that they are simple injuries as per MLC Ex.PW4/A. These are superficial in nature and can take place while doing daily chores.

Consequently, the prosecution has failed to prove charges against the accused persons. There is neither any misreading nor mis-appreciation of the evidence led before the trial court. The judgment passed by the trial court calls for no interference. The appeal is accordingly dismissed. The bonds furnished by the respondents are discharged.

December 7,2007(g) **(Rajiv Sharma), J.**